

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

AMAZON.COM, INC.,

Plaintiff,

V.

STRAIGHT PATH IP GROUP, INC.,

Defendant.

No. 1:15-cv-00682-AJT-TCB

## CONSENT MOTION TO JOIN CLAIMS AND COUNTERCLAIM-DEFENDANTS

PURSUANT TO Rule 20(a)(2)(A), Defendant, Straight Path IP Group, Inc., moves to join LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, “LG”), and Vizio, Inc. (“Vizio”) as counterclaim-defendants. The grounds and reasons for granting this relief are as follows:

1. Straight Path brought a patent infringement action in 2013 against television manufacturers, including LG and Vizio. *Straight Path IP Group, Inc. v. Vizio, Inc., et al.*, No. 1:13-cv-0934 (E.D. Va. filed Aug. 1, 2013) (“934 Action”). The 934 Action is currently pending before this Court. Straight Path contends that certain computer applications running on certain television sets

2. On October 22, 2014, Amazon.com, Inc. (“Amazon”) moved to intervene in the 934 Action, and to sever and stay claims. (934 Action, Dkt. No. 155.)

3. On November 4, 2014, the Court ordered a stay of the 934 Action pending an *inter partes* review of Straight Path's patents instituted by parties that included the TV

manufacturers. (934 Action, Dkt. No. 183.) Consideration of Amazon's motion to intervene was deferred until the stay was lifted. (*Id.*, Dkt. No. 184.)

4. On May 29, 2015, Amazon commenced this declaratory judgment action against Straight Path in the Northern District of California, which was later transferred to this District. (Dkt. No. 45.) In this action, Amazon seeks essentially the same relief it sought when intervening in the 934 Action. This action was also stayed pending *inter partes* review. (Dkt. No. 62.) Ultimately, the stays in both cases were lifted on August 21, 2017.

5. On August 26, 2016, while the two actions were stayed, the Court entered a Consent Order severing claims involving Amazon from the 934 Action and adding them to this action. (Dkt. No. 75.) The Order directed:

- (1) Straight Path's claims against defendants in the 934 action directed to Amazon Instant Video shall be severed, and shall instead be resolved together with Amazon's related declaratory judgment claims and any infringement counterclaims Straight Path may assert in the 682 action; and
- (2) The 682 Action shall not be consolidated with the 934 action for pre-trial purposes or otherwise.

(*Id.* at 2.)

6. There was a dispute among the parties whether the Order transferred Straight Path's claims against LG and Vizio regarding their liability when the Amazon application was installed on their television sets from the 934 Action to this action. To seek clarification, Straight Path filed a motion (Dkt. No. 135), which Amazon opposed (Dkt. No. 139).

7. The parties—Straight Path, Amazon, Vizio, and LG—have conferred and now agree that Straight Path's claims against LG and Vizio regarding their liability when the Amazon application was installed on their television sets may be adjudicated in this action, and that LG and Vizio may be joined as counterclaim defendants to Straight Path's counterclaims.

8. To accomplish joinder of claims and counterclaim-defendants, the parties have agreed to the following:

a. LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, “LG”), and Vizio, Inc. (“Vizio”) would be joined as counterclaim-defendants;

b. The operative pleadings as between Straight Path and these new parties are incorporated by reference from the 934 Action, without need for repleading:

Dkt. No. 1, Straight Path’s complaint;

Dkt. No. 77, Vizio’s answer and counterclaims;

Dkt. No. 107, Straight Path’s answer to Vizio’s counterclaims;

Dkt. No. 116, LG’s answer and counterclaims; and

Dkt. No. 136, Straight Path’s answer to LG’s counterclaims.

9. The current schedule (*see* Dkt. Nos. 90, 97 & 108) will continue to apply to the litigation of all issues between the parties.

10. The parties agree to negotiate a discovery cross-use agreement such that discovery from the 934 Action shall be made available in the 682 Action<sup>1</sup> (excepting any Hulu-only CBI). The parties further agree that additional deposition discovery from LG in the 682 Action or any follow-on action shall be limited to a single deposition on non-technical sales and marketing issues related to LG devices with Amazon Instant Video. The parties further agree that deposition discovery from VIZIO shall be limited to issues related to VIZIO devices with Amazon Instant Video.

11. Amazon, LG, and Vizio consent to the relief sought in this motion.

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<sup>1</sup> Or any later-filed Complaint by Straight Path against LG or VIZIO involving the Amazon Instant Video application.

WHEREFORE, Straight Path seeks entry of the attached proposed order joining claims and parties.

*The parties do not seek oral argument on this motion.*

Dated: November 17, 2017

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\* *Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically provide notice to all counsel of record.

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